

Application No.: 09/970,973

Docket No.: 10013080-1

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested. Entry of this Amendment Under Rule 116 is merited as it raises no new issues and requires no further search.

Claims 1-12 remain pending in this application.

A Declaration under 37 C.F.R. 1.131 from the inventor, Kimberly Read, , is being filed concurrently herewith. The Declaration and attached Exhibits prove a date of actual reduction to practice prior to the reference date of September 24, 2001 of the Davis et al. reference (U.S. Patent Application Publication 2003/0028399) and therefore the reference should be removed and rejections based thereon are respectfully requested to be withdrawn.

The rejection of claims 1, 4, 5, and 8-10 under 35 U.S.C. 102(e) as being unpatentable in view of Davis is hereby traversed in view of the above-referenced Declaration showing a date of actual reduction to practice prior to the reference date of the Davis reference. Based on the foregoing, the rejection of claims 1, 4, 5, and 8-10 is respectfully requested to be withdrawn.

The rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Davis is hereby traversed in view of the above-referenced Declaration showing a date of actual reduction to practice prior to the reference date of the Davis reference. Based on the foregoing, the rejection of claim 2 is respectfully requested to be withdrawn.

The rejection of claims 3, 7, and 12 under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Gorman et al. (U.S. Patent Application Publication 2003/0023641) is hereby traversed in view of the above-referenced Declaration showing a date of actual reduction to practice prior to the reference date of the Davis reference. Based on the foregoing, the rejection of claims 3, 7, and 12 is respectfully requested to be withdrawn.

The rejection of claims 6 and 11 under 35 U.S.C. 103 (a) as being unpatentable over Davis in view of Schaefer et al. (U.S. Patent Application Publication 2001/0052022) is hereby traversed in view of the above-referenced Declaration showing a date of actual reduction to practice prior to the reference date of the Davis reference. Based on the foregoing, the rejection of claims 6 and 11 is respectfully requested to be withdrawn.

All objections and rejections having been addressed, it is respectfully submitted that the

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present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Enclosures: Declaration
Exhibits A-G